

### **REMARKS**

Claims 1-12 were presented.

Claims 1-9 (Group I), drawn to a motor apparatus, were deemed to correspond to class 310, subclass 87.

Claims 10-12 (Group II), drawn to a method of washing a motor, were deemed to correspond to class 029, subclass 596.

The Restriction Requirement states that the inventions are distinct because, “[i]n the instant case, the apparatus can be made by a materially different process, such as cleaning the motor components prior to assembly because motor claims do not require the washing of the motor only the ability to wash the motor by admitting and removing a washing fluid.”

#### **Amendment to Claim 1**

Claim 1 has been amended to recite in relevant part “A washable electric motor assembly for use a plurality of times in food or medicine preparation applications subject to FDA oversight, comprising ... .” The amendment to claim 1 is made to more particularly point out the subject matter that is claimed. As argued hereinbelow, the amendment does not reduce the claim scope of claim 1 from what was previously claimed, but makes the scope more explicit. Support for the Amendment is found throughout the Specification and Drawings and at least at the paragraph numbered [00071] in the originally filed application. Applicant respectfully submits that no new matter is introduced by the Amendment.

#### **Argument for Traversing the Restriction Requirement**

The independent claims as presently amended recite the following:

Claim 1:

A washable electric motor assembly for use a plurality of times in food or medicine preparation applications subject to FDA oversight, comprising:

an electric motor having a component with a non-corroding exposed surface;

an unsealed housing comprising a non-corroding housing material, said unsealed housing configured to admit washing fluid during a washing operation and to allow the exit of the washing fluid upon completion of the washing operation; whereby said washable electric motor assembly is resistant to the effects of corrosive substances, and said electric motor is protected against failure from corrosion by the exiting of the washing fluid from the unsealed housing.

Claim 10:

A method of washing an unsealed electric motor assembly, wherein the motor assembly includes an unsealed non-corroding housing material and a motor having non-corroding components, the motor assembly configured to be used in food or medicine preparation activities subject to FDA oversight, comprising the steps of:  
washing the unsealed electric motor assembly with a washing fluid, whereby the washing fluid is permitted to enter the interior of the unsealed electric motor assembly;  
removing the washing fluid from the unsealed electric motor assembly; and  
operating the electric motor, whereby residual washing fluid remaining within the unsealed electric motor assembly is driven off as a result of the heating of the motor during said operation;  
whereby said electric motor and said electric motor assembly are cleaned, and said electric motor is protected against failure from corrosion by the driving off of the residual fluid from the unsealed electric motor assembly.

Applicant respectfully submits that claim 1 makes reference to “a washable motor assembly for use a plurality of times in food or medicine preparation applications subject to FDA oversight,” and claim 10 uses similar language, by reciting that “the motor assembly [is] configured to be used in food or medicine preparation activities subject to FDA oversight.” As is well known, and as is also described in the Specification of the application in the Background description of the prior art, at the paragraph numbered [0007] in the originally filed application, the United States Food and Drug Administration, or FDA, imposes requirements that must be

adhered to in the food and drug making arts. This paragraph is reproduced below for the convenience of the Examiner.

Motor assemblies used in the food preparation or medicine preparation fields are required to be compatible with FDA regulations. In particular, the FDA has promulgated regulations regarding the absence of corrosion on surfaces that may come into contact with materials such as food and medicines that are undergoing processing. The absence of corrosion requirement has been met using two approaches. In one approach, a fully sealed motor is protected from corrosion by the use of surface preparations such as FDA approved paints. In another approach, the use of a fully sealed motor involves providing a housing made from a non-corroding material such as stainless steel. The surfaces of the motor assembly must be able to undergo cleansing, for example by being washed with solutions that clean and/or disinfect the surfaces of the motor assembly.

Applicant respectfully points out that under applicable FDA rules, the motor of claim 1 must be provided in a substantially corrosion-free condition each time it is used. The FDA periodically inspects facilities that make drugs and foods to assure compliance with its rules and regulations. For reasons of maintenance of appropriate cleanliness and quality control standards that conform to legally enforceable requirements of the FDA, if the motor were not washable, it could not be used repeatedly because of the concerns regarding maintenance of corrosion-free, sanitary and contamination-free conditions. Therefore, because the motor MUST be washable in order to conform to the FDA rules, the issue of maintaining a motor in corrosion-free condition is a real concern. The alternative of a non-washable motor (or a motor that is only pre-cleaned prior to its first assembly) would be that the motor could only be used once (or at most a very limited number of times, such as for multiple batches in a finite time period) for products such as foods and drugs that are subject to FDA supervision and oversight, and then the motor would have to be discarded.

Applicant respectfully submits that the Specification, at the paragraph numbered [00071] in the originally filed application, describes the use of the motor and motor assembly "according to principles of the invention." This paragraph is reproduced below for the convenience of the Examiner.

We will now describe the operation of the motor and motor assembly according to principles of the invention. The operation of the motor and motor assembly is conducted in the conventional manner, for example in a mixing or stirring device. After the motor and motor assembly have completed the contemplated operation, such as mixing or stirring material for use in a food processing or medicinal processing operation subject to FDA regulation or oversight, the motor and motor assembly are removed, as necessary, from the food or medicine preparation apparatus. If the motor and motor assembly can be safely cleaned within the food or medicine preparation apparatus, the motor and motor assembly need not be removed, and optionally may be cleaned in place. The motor and motor assembly are washed down using a washing fluid, for example a water-based cleaning fluid. The washing fluid is permitted to enter the motor assembly during washing, and is permitted to exit the motor assembly upon completion of the washing process. The washing fluid can be drained from the motor assembly, for example by gravity, as part of the washing fluid removal process. Residual moisture that would otherwise remain within the motor assembly is removed (or driven off) by the heat generated by operating the motor. If necessary, the motor is operated for a time specifically to drive off moisture that may be present within the motor assembly or housing. The motor and motor assembly are reassembled in the food or medicine preparation apparatus, as necessary. Thus the motor and motor assembly are protected from corrosion during and after the washing process both by the fact that non-corroding materials of construction are used, and by the fact that the residual moisture can escape from the motor and motor assembly when the motor warms up, rather than remaining trapped in

proximity to the motor windings for extended times when the motor is operated. Corrosion of the motor and motor assembly components is accordingly reduced, and premature failure of the motor is avoided.

Applicant respectfully submits that a fair reading of the above paragraph describes the repeated use of the motor and suggests the advantages of re-use of the motor, and does not suggest or describe that the motor is used only one time and discarded. Applicant respectfully submits that the characterization that the motor might be assembled from pre-cleaned components is not appropriate for use in the context of “food or medicine preparation activities subject to FDA oversight” according to principles of the invention taught in the application. Under the conditions specified in the Restriction Requirement, the motor would be useful at most once in certain activities subject to FDA oversight, which is clearly not the mode of operation described by the application. Claim 1 now has been amended to make the use of the motor a plurality of times an explicit condition.

Applicant also respectfully submits that claim 1 as originally filed logically requires that the motor undergo washing. In particular, the last clause of the claim requires that “said electric motor is protected against failure from corrosion by the exiting of the washing fluid from the unsealed housing.” There can be no “protection against failure from corrosion by the exiting of the washing fluid from the unsealed housing” if no washing fluid is ever applied to the motor. Therefore, the only logical inference that can be drawn is that there must at some time be washing fluid applied to the unsealed housing.

**Based on the arguments presented above, and in view of the amendment to claim 1, Applicant respectfully traverses the Restriction Requirement.** Applicant respectfully submits that the motor assembly as recited in claims 1-9 and the method of cleaning a motor as recited in claims 10-12 are inseparable in the field of use of “food or medicine preparation activities subject to FDA oversight,” as required by independent claims 1 and 10.

Response to Restriction Requirement  
U.S. Serial No. 10/719,768  
Filed: November 21, 2003  
Attorney Docket No: 847-073

**Compulsory Election**

The Restriction Requirement also states that “Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).” Accordingly, Applicant under the compulsion expressed in 37 CFR 1.143 elects Group II if the argument presented herein to traverse the Restriction Requirement is not sustained.

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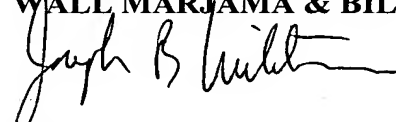
### CONCLUSION

Applicant has amended claim 1 to more distinctly claim the invention. Applicant has presented reasons for traversing the Restriction Requirement, and has argued that the Restriction Requirement should be withdrawn. Applicant submits that claims 1-12 are now in proper condition for allowance, and requests the issuance of a Notice of Allowance at the Examiner's earliest convenience. In the event that the Restriction Requirement is not withdrawn, Applicant elects to prosecute the claims in Group II.

If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is requested to call Applicant's attorney at the phone number noted below.

Respectfully submitted,  
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